

1078

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**FILED**

AUG 01 2022

CARMELITA REEDER SHINN, CLERK
U.S. DIST. COURT, WESTERN DIST. OKLA
BY: ku, DEPUTYDerek Dwayne Smith,

(Enter the full name of the plaintiff.)

CIV 22 645 J'

v.

Case No. _____
(Court Clerk will insert case number)(1) Food Service CDC

(2) _____

(3) _____

(Enter the full name of each defendant. Attach
additional sheets as necessary.)**PRO SE PRISONER CIVIL RIGHTS COMPLAINT**Initial Instructions

1. You must type or legibly handwrite the Complaint, and you must answer all questions concisely and in the proper space. Where more space is needed to answer any question, you may attach a separate sheet.
2. You must provide a full name for each defendant and describe where that defendant resides or can be located.
3. You must send the original complaint and one copy to the Clerk of the District Court.
4. You must pay an initial fee of \$402 (including a \$350 filing fee and a \$52 administrative fee). The complaint will not be considered filed until the Clerk receives the \$402 fee or you are granted permission to proceed *in forma pauperis*.
5. If you cannot prepay the \$402 fee, you may request permission to proceed *in forma pauperis* in accordance with the procedures set forth in the Court's form application to proceed *in forma pauperis*. See 28 U.S.C. § 1915; Local Civil Rule 3.3.

- If the court grants your request, the \$52 administrative fee will not be assessed and your total filing fee will be \$350.
- You will be required to make an initial partial payment, which the court will calculate, and then prison officials will deduct the remaining balance from your prison accounts over time.
- These deductions will be made until the entire \$350 filing fee is paid, regardless of how the court decides your case.

7. The Court will review your complaint before deciding whether to authorize service of process on the defendants. *See* 28 U.S.C. §§ 1915(e)(2), 1915A; 42 U.S.C. § 1997e(c)(1). If the Court grants such permission, the Clerk will send you the necessary instructions and forms.

8. If you have been granted permission to proceed *in forma pauperis*, the United States Marshals Service will be authorized to serve the defendants based on information you provide. If you have not been granted permission to proceed *in forma pauperis*, you will be responsible for service of a separate summons and copy of the complaint on each defendant in accordance with Rule 4 of the Federal Rules of Civil Procedure.

COMPLAINT

I. Jurisdiction is asserted pursuant to:

___ 42 U.S.C. § 1983 and 28 U.S.C. § 1343(a)(3) (NOTE: these provisions generally apply to state prisoners), or

___ *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971), and 28 U.S.C. § 1331 (NOTE: these provisions generally apply to federal prisoners)

If you want to assert jurisdiction under different or additional statutes, list these below:

3

II. State whether you are a:

- ☒ Convicted and sentenced state prisoner
☐ Convicted and sentenced federal prisoner
☐ Pretrial detainee
☐ Immigration detainee
☐ Civilly committed detainee
☐ Other (please explain) _____

III. Previous Federal Civil Actions or Appeals

List each civil action or appeal you have brought in a federal court while you were incarcerated or detained in any facility.

1. Prior Civil Action/Appeal No. 1

a. Parties to previous lawsuit:

Plaintiff(s): Derek Dwayne SmithDefendant(s): Food Service OCDCb. Court and docket number: CIV-22-512-Cc. Approximate date of filing: 6/28/22d. Issues raised: UNSAFE Building Conditions
INFestation vermins AND Bed Bugse. Disposition (for example: Did you win? Was the case dismissed? Was summary judgment entered against you? Is the case still pending? Did you appeal?): CASE still Pending

f. Approximate date of disposition: _____

If there is more than one civil action or appeal, describe the additional civil actions or appeals using this same format on a separate sheet(s).

4

IV. Parties to Current Lawsuit

State information about yourself and each person or company listed as a defendant in the caption (the heading) of this complaint.

1. Plaintiff

Name and any aliases: Derek DWANNE Smith

Address: 201 N SHartel OKC OK 73102

Inmate No.: 140018308

2. Defendant No. 1

Name and official position: Food Service
OCDC

Place of employment and/or residence: OKlahoma County
Jail 201 N SHartel OKC OK 73102

How is this person sued? () official capacity, (☒) individual capacity, () both

3. Defendant No. 2

Name and official position: _____

Place of employment and/or residence: _____

How is this person sued? () official capacity, () individual capacity, () both

If there are more than two defendants, describe the additional defendants using this same format on a separate sheet(s).

5

6. Do not include claims relating to your criminal conviction or to prison disciplinary proceedings that resulted in loss of good time credits.

- If a ruling in your favor "would necessarily imply the invalidity" of a criminal conviction or prison disciplinary punishment affecting the time served, then you cannot make these claims in a civil rights complaint unless you have already had the conviction or prison disciplinary proceeding invalidated, for example through a habeas proceeding.

Claims

List the federal right(s) that you believe have been violated, and describe what happened. Each alleged violation of a federal right should be listed separately as its own claim.

1. **Claim 1:**

(1) List the right that you believe was violated:

8th Amendment
(Administration was told Bed Bugs are getting in my Food Trays Fix The Problem so That It Don't happen To Anyone Else!) 6-12-22 h.c. 16:12

(2) List the defendant(s) to this claim: (If you have sued more than one defendant, specify each person or entity that is a defendant for this particular claim.)

OKlahoma County Detention Center

(3) List the supporting facts:

Bed Bugs Travel on humans They go
Where You go But They Shouldn't Not
Be in Food Trays or in Food
Service!

(4) Relief requested: (State briefly exactly what you want the court to do for you.)

2 Million Dollars...

2. Claim II:

(1) List the right that you believe was violated:

8th Amend
Ment! Medical Refuses To Give Me Treatment
Or Medicine After This Facility Has Been
Fined For Bed Bugs

(2) List the defendant(s) to this claim: (If you have sued more than one defendant, specify each person or entity that is a defendant for this particular claim.)

Food Service OCDC Administrative
Authoritys over This County Jail
Knew of These Complaints!

SUPPORTING FACTS

Claim: 2

- 1) Medical Charges \$15.00 For The Medicine You Need To Treat Your SKIN After You Been Bitten BY Bed BUGS These Bites Leave Torn Tissue Marks ON Your SKIN. The Problem is WHY AM I Being Charged When This Facility HAS Been Fined For HAVING A MAJOR Bed BUG Problem AND HAVE BEEN Told To Fix It.
- 2) Medical Refuses To See You IF You Don't HAVE MONEY or IF Your Request is Not Life Threatening AND This is Not Fair To People Who Are Diabetic And Indigent Like MYSELF.

Attachment Sheet

Supporting Facts:

ON 7-13-22 around Lunch Between 10AM 11:00 Lunch Trays were Being Passed out ON 13 D Floor. Two Pod Orderlys and One Officer were Passing out Trays When They Came To Cell 18 Which is MY Cell They Said MY TRAY WAS NOT ON THE CART THE TRAY WAS SUPPOSED TO BE A Diabetic Tray For me Normally Everyone get There Tray At The Same Hour. But ON THIS DAY MY TRAY Came 1 HOUR Later When MY TRAY Finally Came A Female Black Officer Who's NAME I Didn't get Delivered my TRAY. I Said THANK YOU AND She Left Rec WAS Being Let out For The Pod I OPEN MY TRAY AND Notice Something CRAWLING INSIDE MY TRAY IT WAS A Bed Bug. The UNIT MANAGER WAS Standing There Opening Doors For Rec So I Made MY Complaint Right AWAY To The UNIT MANAGER MS Stuart ON The 13 Floor. During Our Rec Hour.

This was not the first food tray delivered to me contaminated with a bed bug in it. On 5-24-22 I complained to Officer Rodriguez who was working on mourning shift on 13 D at that time.

My first complaint was to Administrative Authority about food service asking them to do the right thing and report these bed bug problems that this Oklahoma County Detention Center has. This is not an isolated situation. Others have complained on record here at this facility about bed bugs and vermin in their food. I'm asking the courts to check the request log here at this detention to understand these claims or true.

ATTACHMENT Sheet

SUPPORTING FACTS:

1. Following The Request To STAFF AND EMERGENCY GRIEVANCE PROCESS IS A PROCESS I USED TO LET THIS FACILITY FIX THE PROBLEM GOING ON IN THE FOOD SERVICE. AFTER EXHAUSTING ALL MY REMEDIES THIS PROBLEM ONLY GOT WORSE FOOD SERVICE CHANGED THERE PERSONEL WORKERS BUT FOOD SERVICE ONLY GOT WORSE MORE CONTAMINATED FOOD STARTED COMING FROM FOOD SERVICE.
2. The GRIEVANCE PROCESS HERE WHEN I MAKE COMPLAINT THERE IS NOTHING DONE ABOUT IT GIVING ME NO CHANCE TO APPEAL. THIS FACILITY TREAT INMATE SO BAD THE ONLY TIME YOU GET THERE ATTENTION IS BY CIVIL ACTIONS. DEPARTMENT OF HEALTH HAS FINED OKLAHOMA COUNTY FOR EVERY COMPLAINT I HAVE MENTIONED AND I WAS COMPLAINTING BEFORE THEY WERE FINED!

80f8

(3) List the supporting facts:

I Followed All Chains Of Command Before
Filing Civil Actions I've Put in For Copies
Of Request Sheets With The Request
Number Showing Information Withheld.

(4) Relief requested: (State briefly exactly what you want the court to do for you.)

Oklahoma Health Department Has Fined
This Facility Just This Month July, 2022
350,000,00! MY Complaint Is Two
Million Dollars!

If there are more than two claims that you wish to assert, describe the additional claims using this same format on a separate sheet(s).

VI. Declarations

I declare under penalty of perjury that the foregoing is true and correct.

Derek Smith

Plaintiff's signature

7-27-22

Date

I further declare under penalty of perjury that I placed this complaint in the prison's legal mail system, with the correct postage attached, on the 27 day of July, 2022

Derek Smith

Plaintiff's signature

7-27-22

Date